

§ 19.258

imported for beverage purpose, the proprietor must pay a tax equal to the difference between the higher duty and the duty actually paid. Proprietors will refer to this additional tax as “additional tax—less duty” and pay it at the same time and in the same manner as the distilled spirits excise tax. Proprietors must compute the amount of “additional tax—less duty” owed by applying this rate to the total quantity of proof gallons withdrawn. The proprietor must make a separate entry on the tax return labeled “additional tax—less duty” and show the amount of tax due.

(26 U.S.C. 5001)

§ 19.258 Additional tax on nonbeverage spirits.

The additional tax imposed by 26 U.S.C. 5001(a)(8), on imported spirits withdrawn from customs custody without payment of tax and later withdrawn from bonded premises for beverage purposes, and the related provisions of § 19.257, are not applicable to Puerto Rican or Virgin Islands spirits brought into the United States and transferred to bonded premises under the provisions of this part.

(26 U.S.C. 5201)

Subpart J—Claims

§ 19.261 Scope.

This subpart covers the various types of claims that a proprietor may file and includes provisions regarding the following:

- (a) General requirements for filing claims;
- (b) Specific requirements for filing certain types of claims; and
- (c) Remission, abatement, credit and refund of tax.

(26 U.S.C. 5008, 5215, 6065)

REQUIREMENTS FOR FILING CLAIMS

§ 19.262 General requirements for filing claims.

(a) A proprietor must file all claims for abatement, remission, credit, or refund under this part on form TTB F 5620.8, Claim—Alcohol and Tobacco Tax and Trade Bureau Taxes. The claim must:

27 CFR Ch. I (4–1–12 Edition)

(1) Be filed with TTB’s National Revenue Center;

(2) Show the name, address, and capacity of the claimant;

(3) Be signed by the claimant or by the claimant’s duly authorized agent under penalties of perjury as provided in § 19.45; and

(4) Include any supporting documents required by this part. The supporting documents will be considered a part of the claim.

(b) The appropriate TTB officer may require that the claimant submit additional evidence or documentation to further support the legitimacy or accuracy of the claim.

(26 U.S.C. 5008, 5215, 6065)

§ 19.263 Claims on spirits, denatured spirits, articles, or wines lost or destroyed in bond—specific requirements.

(a) *Claims for remission.* A claim for remission of tax liability relating to the destruction or loss of spirits, denatured spirits, articles, or wines in bond must include the following information:

(1) *Identity of containers.* Identification of the containers, by serial number if they were numbered, and location of the containers from which the spirits, denatured spirits, articles, or wines were lost, or in which they were removed for destruction;

(2) *Quantity of spirits.* The quantity of spirits, denatured spirits, articles, or wines lost or destroyed from each container, and the total quantity of spirits or wines covered by the claim;

(3) *Amount of claim.* The total amount of tax for which the claim is filed;

(4) *Identity of distilled spirits plant.* The name, number, and address of the distilled spirits plant from which withdrawn without payment of tax or removed for transfer in bond, if the claim involves spirits so withdrawn or removed or if the claim involves wines transferred in bond, and the date and purpose of such withdrawal or removal. In the case of imported spirits lost or destroyed while being transferred from customs custody to TTB bond as provided in § 19.409, the name of the customs bonded warehouse, if any, and port of entry will be included instead of the plant name, number, and address;

(5) *Date and cause.* The date of the loss or destruction: If the date is not known, enter the date the loss or destruction was discovered. Include the cause of the loss together with relevant facts and details;

(6) *Carrier.* The name of the carrier if the loss occurred while the spirits were in transit;

(7) *Consignee.* The name and address of the consignee, in the case of spirits withdrawn without payment of tax which are lost before being used for research, development, or testing;

(8) *Theft.* If loss by theft, the facts establishing that the loss did not occur as the result of any negligence, connivance, collusion, or fraud on the part of the proprietor of the plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them; and

(9) *Insurance.* In the case of a loss by theft, whether the claimant is indemnified or recompensed for the spirits or wines lost and if so, the amount and nature of indemnity or recompense and the actual value of the spirits or wines, less the tax.

(b) *Claims for abatement, credit or refund.* If a proprietor files a claim for abatement of an assessment, or for credit or refund of tax that has been paid or determined, for spirits, denatured spirits, articles, or wines lost or destroyed in bond, the claim must include all of the applicable information described in paragraph (a) of this section as well as the following:

(1) The date of assessment or payment of the tax for which abatement, credit or refund is claimed. If the tax has not been assessed or paid, give the date of the tax determination; and

(2) The name, plant number and address of the plant where the tax was determined, assessed or paid. If the tax was assessed against, or paid by, someone other than the proprietor, then give the name, address and capacity of the person who was assessed or paid the tax.

(c) *Supporting documents*—(1) *General.* If possible, the proprietor should support the information and details on all claims filed under this section with affidavits by persons having personal knowledge of the circumstances of the loss or destruction.

(2) *Losses in transit.* For claims on spirits, denatured spirits, articles, or wines lost while being transferred by a carrier, the claim must be supported by a copy of the bill of lading.

(3) *Spirits withdrawn without payment of tax.* If the lost spirits were withdrawn without payment of tax for research, development, or testing, the claim must be supported by a copy of the proprietor's sample record prescribed in subpart V of this part.

(26 U.S.C. 5008, 5370)

§ 19.264 Claims on spirits returned to bonded premises—specific requirements.

(a) *General.* Section 5215(a) of the IRC allows for the return of tax paid or tax determined spirits to the bonded premises of a distilled spirits plant under certain conditions. In addition, section 5008(c) of the IRC allows a proprietor to file a claim for credit or refund of tax on the spirits returned to bonded premises under section 5215(a). For information on allowable returns see subpart Q of this part.

(b) *Claims for credit or refund.* A claim for credit or refund of tax on spirits returned to bonded premises under section 5215(a) must include the following information:

(1) Quantity of spirits so returned;

(2) Amount of tax for which the claim is filed;

(3) Name, address, and plant number of the plant to which the spirits were returned and the date of the return;

(4) The purpose for which the spirits were returned; and

(5) The serial number of the gauge record for the returned spirits.

(c) *Puerto Rican and Virgin Islands spirits and imported rum.* If the alcoholic content of the spirits contain at least 92 percent Puerto Rican or Virgin Islands rum, or if the spirits contain rum imported from any area other than Puerto Rico and the Virgin Islands, the claim must show:

(1) Proof gallons of the finished product derived from Puerto Rican or Virgin Islands spirits, or derived from rum imported from any other area; and

(2) The amount of tax imposed by 26 U.S.C. 7652 or 26 U.S.C. 5001, determined at the time of withdrawal from bond, on the Puerto Rican or Virgin Islands